

PT 97-23
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

TINLEY PARK CHRISTIAN CHURCH)		
Applicant)		
)	Docket #	96-99-17
v.)	PIN #	09-08-203-045
)		
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Synopsis:

Tinley Park Christian Church (hereinafter referred to as the "Applicant") filed an Application for Property Tax Exemption To Board of Review concerning Will County Parcel No. 09-08-203-045 for the 1996 assessment year.

By a letter dated June 10, 1997, the attorney for the applicant requested an office disposition in this matter and submitted an additional affidavit.

The issues in this matter include first, whether the applicant owned this parcel during the 1996 assessment year. The second issue is whether the applicant is a religious organization. The final issue is whether the applicant used this parcel and the residence thereon as a parsonage pursuant to 35 ILCS 200/15-40 during the 1996 assessment year. Following a review of the documents originally submitted in this matter, and the documents and affidavits submitted

later, it is determined that the applicant owned this parcel during the entire 1996 assessment year. It is further determined that the applicant is a religious organization. Finally, it is determined that the applicant used this parcel and the residence thereon as a parsonage, pursuant to 35 **ILCS** 200/15-40, during the 1996 assessment year. It is therefore concluded that this parcel qualifies for exemption for the 1996 assessment year.

Findings of Fact:

1. The parcel here in issue and the residence thereon were acquired by the applicant by a trustee's deed dated July 6, 1995.

2. The Will County Board of Review transmitted an Application for Property Tax Exemption To Board of Review concerning this parcel, for the 1996 assessment year, to the Illinois Department of Revenue, (hereinafter referred to as the "Department") on June 2, 1996.

3. On December 5, 1996, the Department denied the applicant's request for exemption.

4. By a letter dated December 18, 1996, the applicant's attorney, Richard L. Hutchison, requested a formal hearing in this matter.

5. On June 10, 1997, Mr. Hutchison submitted a letter requesting an office disposition in this matter. Attached to this letter were a revised parsonage questionnaire and an affidavit.

6. Based on the revised parsonage questionnaire and affidavit, I find that this parcel and the residence thereon were occupied by Tim Harlow, the pastor of applicant, and his family.

7. I also find that the pastor is required, as a condition of his employment, to reside in the residence on this parcel.

8. I further find that the pastor has no ownership interest in this parcel and does not pay rent to the church.

9. I take administrative notice that the Director of Revenue on May 1, 1997, granted a partial year exemption to the applicant concerning a different parcel with a residence, occupied by the applicant's youth pastor, in Docket No. 96-99-331.

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes,...and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers...their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches....

A parsonage,...shall be considered under this Section to be exclusively used for religious purposes when the church,...requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of

construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Base on the foregoing findings of fact, I conclude that the applicant owned this parcel during the entire 1996 assessment year. I further conclude that the Department has previously determined that the applicant is a religious organization. Finally, I conclude that since pastor Harlow and his family lived in the house on this parcel, owned by the applicant, and since the pastor had no ownership interest in this house or parcel and did not pay rent, that this parcel qualified as a parsonage pursuant to 35 ILCS 200/15-40 during the 1996 assessment year.

I therefore recommend that Will County Parcel No. 09-08-203-045 be exempt from real estate taxation for the 1996 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
June 11, 1997